

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

In re: RESTASIS (CYCLOSPORINE
OPHTHALMIC EMULSION) ANTITRUST
LITIGATION

18-MD-2819 (NG) (LB)

This Document Relates To:
All End Payor Class Actions

**JOINT STIPULATION AND [PROPOSED] ORDER ESTABLISHING THE
PROCEDURES AND DEADLINES FOR FILING MOTIONS TO SEAL THE PARTIES’
BRIEFING OF MOTIONS FOR SUMMARY JUDGMENT AND MOTIONS TO
EXCLUDE CERTAIN EXPERT TESTIMONY AND PUBLIC VERSIONS THEREOF**

WHEREAS on December 21, 2020, Allergan, Inc. and the End-Payor Plaintiffs (“EPPs”) completed briefing their respective omnibus motions for summary judgment, and on January 4, 2021, completed letter briefing regarding Allergan’s summary judgment reply brief (Dkts. 602, 619, and 624);

WHEREAS on January 12, 2021, the parties completed briefing the cross-motions for summary judgment on patent issues (together with the omnibus summary judgment motions, the “Summary Judgment Motions”);

WHEREAS on December 23, 2020, the parties completed briefing several motions to exclude testimony from various expert witnesses;

WHEREAS on January 5, 2021, the parties completed briefing motions to exclude testimony from Laura Craft, Allergan’s doctor experts, and Plaintiffs’ doctor experts (together with the motions to exclude concluded on December 23, 2020, the “*Daubert* Motions”);

WHEREAS pursuant to the Stipulated Confidentiality Order (Dkt. 68), the parties have filed and will file their Summary Judgment Motions and *Daubert* Motions under seal and will file corresponding motions to seal and redacted public versions of the respective briefing;

WHEREAS the Summary Judgment Motions and *Daubert* Motions involve hundreds of pages of briefing and hundreds of documents, which may contain competitively sensitive information, and determining the basis for sealing will involve extensive review and discussions with clients;

WHEREAS in an effort to streamline the motions to seal briefing, the parties will identify the parts of the Summary Judgment Motions and *Daubert* Motions that they both request to seal and the parties will file motions to seal accordingly;

IT IS HEREBY STIPULATED AND AGREED, subject to the Court's approval, that the procedures and deadlines for filing the motions to seal and public versions of the Summary Judgment and *Daubert* Motions briefing are established as follows:

1. By February 1, 2021, Allergan shall serve on EPPs (1) a table identifying all of the documents that Allergan requests to seal and Allergan's reasons for requesting sealing for those documents, as well as (2) proposed public versions of the Summary Judgment Motions and *Daubert* Motions;

2. By February 17, 2021, EPPs shall serve on Allergan (1) an updated version of the table identifying those documents for which EPPs do not oppose Allergan's sealing requests; (2) a table identifying any additional documents that EPPs request to seal and EPPs' reasons for requesting sealing of those documents; and (3) their proposed public versions of the Summary Judgment Motions and *Daubert* Motions (if different from Allergan's proposed public versions);

3. The parties shall thereafter meet and confer and prepare a joint motion to seal the information and documents not in dispute;

4. Pursuant to the Stipulated Supplemental Confidentiality Order (For Nonparty Designated Material) (Dkt. 202), by February 24, 2021, the parties shall notify any nonparties whose Confidential materials were submitted in the Summary Judgment Motions and/or *Daubert* Motions and for which one or both parties seek to use in open court proceedings or to file publicly, so that any affected nonparty has an opportunity to be heard regarding the use of its Confidential materials;

5. By March 2, 2021, the parties shall file the joint motion to seal documents not in dispute;

6. By March 16, 2021, each party shall serve upon the other party any respective motions to seal any remaining documents for which sealing is disputed, and also file on the public MDL docket versions of the Summary Judgment Motions and *Daubert* Motions that include redactions of information that is subject to either the joint motion to seal or individual motions to seal;

7. By March 26, 2021, the parties will serve on each other their oppositions to the motions to seal documents that are in dispute; and

8. By April 5, 2021, the parties will serve replies on each other in support of the motions to seal documents that are in dispute, and the parties will file on the public docket the fully-briefed motions.

SO ORDERED this ____ day of January 2021.

HONORABLE NINA GERSHON
UNITED STATES DISTRICT JUDGE

Dated: January 14, 2021

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